

EDGEFIELD COUNTY COUNCIL MINUTES

Minutes February 3, 2009

The regular meeting of the Edgefield County Council was held at 6:00 P. M. Tuesday, February 3, 2009, in the County Council Chambers, 225 Jeter St., Edgefield.

Members present

C. Monroe Kneece, Chairman
Willie C. Bright, Vice Chairman
Rodney Ashcraft, Councilman
Genia Blackwell, Councilwoman
Norman Dorn, Councilman

Others present

John Pettigrew, Jr., County Administrator
John Byrd, Jr., County Attorney
Lynn Strom, Finance Manager
Barbara R. Stark, Clerk to Council
And others as per the list attached

Chairman Kneece called the meeting to order and Rev. J. R. Hooper gave the invocation. The Pledge of Allegiance to the Flag was recited.

Motion was made by Councilman Bright, seconded by Councilman Dorn, to approve the February 3, 2009 agenda, moving the first item under new business to old business. The Mt. Vintage infrastructure was addressed at the January meeting and should be old business. Motion carried unanimously.

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Motion was made by Councilman Bright, seconded by Councilman Dorn, to approve the January 2, 2009, Minutes of the Regular Meeting of the Edgefield County Council, and the motion carried unanimously.

Reports

No comments.

Ordinances

Ordinance No. 08-09-601

“An Ordinance Providing for a Lease and Agreement Between Edgefield County and Western Carolina Aviators, LLC, for Approximately One Acre of Land with Improvements Consisting of a Metal Aircraft Hangar Building Located at the Trenton Airport.”

At the time the Western Carolina Aviators, LLC was obtained it wasn't known that the

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name was reserved by someone else. There was no alternative but to change the name so John Moore, Mark Dupont, and Dick Murphy decided on the name of 6J6 Hangar, LLC, which is now inserted for third reading of Ordinance No. 08-09-601.

Motion was made by Councilman Bright, seconded by Councilman Dorn, to change the name from Western Carolina Aviators, LLC to 6J6 Hangar, LLC . Motion carried.

The third reading of Ordinance No. 08-09-601, “An Ordinance Providing for a Lease and Agreement Between Edgefield County and 6J6 Hangar, LLC, for Approximately One Acre of Land with Improvements Consisting of a Metal Aircraft Hangar Building Located at the Trenton Airport” was made by a motion from Councilman Dorn, seconded by Councilman Bright. Motion carried with Councilman Ashcraft opposing.

Linda Anderson

Mrs. Anderson addressed council concerning the Edgefield County Airport and the following is a summary of her remarks.

Those who lack knowledge or experience regarding any issue, usually seek the advice and guidance of those who possess these qualities. Plane Fun, Inc. did this in 1994 when the process was completed for the initial leasing of the 99 acres at Edgefield County Airport located in Trenton. The first step taken by Plane Fun was to contact the Federal Aviation Administration, the South Carolina Division of Aeronautics (which is under the South Carolina Department of Commerce) and various airport managers. This was to determine the status of the Airport, seek approval for airport improvements and guidance in establishing the correct airport management procedures. The process has continued throughout the past 14 years, is on-going and must be continued in the future for this Airport to be successful.

To date, Edgefield County Airport has grown from a 3 space hangar utilized by 3 individuals to a well known airport with an additional 3 hangars housing 24 planes and actively used for many purposes. Plane Fun’s investment is well over \$100,000 just for the building of 3 hangars, purchase of two buildings and renovations of those buildings. All expenses associated with managing, maintaining and improving the Airport have been paid by Plane Fun. In addition to everyday expenses, taxes and insurance coverage are paid by Plane Fun. At the end of Plane Fun’s lease, all buildings and improvements are given to the County for \$1.00. No funds have been paid by the 3 hangar renters nor the County. State and Federal grant funds are available only to government agencies like the County.

Lacking knowledge of and experience in running an Airport, we assumed the County Council, previous Administrator, and the current Administrator would welcome the

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opportunity to be informed regarding these issues. Actions have proven otherwise. While we understand the three individuals' desire to continue to use the hangar spaces for personal reasons, at the lowest possible cost and requirements, we do not believe this is in the best interest of the county. It appears this council has disregarded information provided over the years regarding the value of, as well as what is required to manage and maintain this Airport. Should this Council desire to approve this lease as written, any funds derived from this agreement should be directly provided to Plane Fun to assist in meeting the expenses of the Airport.

Plane Fun will continue to promote this Airport and address this Council in hopes that one day, all will understand the impact this Airport has on the local and state economy. In closing, I would like to express our appreciation to Mr. Rodney Ashcraft who has talked with all parties, contacted the aviation authorities and other airport managers to gain independent knowledge of these issues. We also wish to express our appreciation to Ms. Genia Blackwell for her review and careful consideration regarding the Airport issues.

RESOLUTIONS

Resolution No. 08-09-310, "A Resolution Designating Burton Center for Disabilities and Special Needs as an Entity in Edgefield County to Provide Transportation to the Elderly or Persons with Disabilities" was approved by a motion made by Councilman Bright, seconded by Councilwoman Blackwell. Motion carried unanimously.

New Business

Sam Crouch, Chairman of the "C" Fund Committee addressed council concerning Townes Road. Mr. Crouch stated that at the last few meetings of the "C" fund committee some of the residents (Mr. Jackson and Mr. Williams) have sought to have some sort of improvement to Townes Road. We have not made a recommendation on this. Our main concern is liability to the county. Every paving project that we have ever done has adhered to the county road ordinance which is 50 ft. of right-of-way. We have thirty feet at best on Townes Road and that is questionable now as to whether we have that or not.

Sam referred to the letter from the Nance Engineering Firm outlining some of the difficulties involved in paving that road with a 30 ft. right-of-way. It would probably be impossible with less than 30 feet. As far as the liability is concerned, if we vary from the road ordinance, the problems talked about in the Nance's letter, are not only the drainage, but also the fact that all of construction equipment would have to be in that very tight area. There is a possibility the road could be closed up to four hours with no traffic being able to go in or out, even an ambulance or fire truck if one should be needed. This could mean a lawsuit for Edgefield County.

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So, the position of the Transportation Committee is if the county wants the road paved under these existing circumstances, the county would have to give the Committee a variance from the 50 ft. requirement that is currently in the ordinance with the acceptance of the liability that would go with doing that. We are not going to put your neck in the noose without you (council) knowing about it and approving it. This is the situation we face.

Chairman Kneece asked Lisa Nance how did the 30 ft. right-of-way come into play when it measured out to about 18 ft? Lisa said they were originally told in 2001 that it was 30 ft., and that she has no idea how much there really is.

Guy Mueller (Building & Planning) said he had measured in three to four different places and came with anywhere from 18 to 20 feet. There has been some research done and the area being discussed is at the entrance of Townes Road. There is some documentation that the McKies had given some land at the mouth of the road. That is the only part wider than the 18 to 20 ft. When you go up the hill at the top it is pretty visible where you can see the road bottles back in.

Sandy McKie

I have lived on or around Townes Road my entire life. I helped Mr. Jackson build his house there. We have had cordial relationships with the majority of the residents on Townes Road. The mouth of Townes Road where it meets Martintown Road is approximately thirty feet. By the time you hit the top of the hill which is about forty feet to the crest of the hill there it has narrowed significantly. By the time you reach my Uncle Milton's property, now deeded to his four children, it narrows significantly, which you are talking about 350 ft. This road is almost 2000 ft. to that point, so we are arguing that we have 30 ft. right-of-way over the first 50-60 ft. After that it narrows greatly and by the time you get 400 ft. into the road we are at 18 to 20 ft. It is virtually impossible, according to Sam, to pave an 18 to 20 ft. wide road.

To ask the McKies to give more land for the benefit of the residents there that will have no Edgefield County residents other than the ones living there currently, will benefit from this. This will be prohibitively expensive. It has never been, and I hope it never will be, the hallmark of Edgefield County Council to just take land by eminent domain. With the paving of the road, traffic and the speed will increase drastically. The speed is already bad and is a safety factor. When you pave it, it will get faster. I believe one of the council members was there and witnessed the speed already. The speeds are high. You pave it and the speed will get ridiculously high. That is a significant factor. Requiring a 60 ft. right-of-way, you are talking from 18 ft. to 50 ft. You will greatly impact pasture land in one place and in one area a resident that would be on top of the road. You would have to move two structures, change the power line right-of-way, and you have another 70 ft.

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added on to that which would mean we would lose another 70 ft. of pasture.

It is very, very ill thought of to think that we can pave an 18 ft. road, 2000 ft long for the benefit of the few residents that live there. It is not a connector, it does not go anywhere. In 1915 there was a ferry back there. It has not been in operation since 1915. My grandfather bought it then (both sides of the road) and the center line. The property goes to the center line of the road. The winter conditions, if speed is a factor now and if they pave it winter conditions will be suicidal. There are banks, hills, and curves and other things that I am sure Mr. Jackson will speak of, that will have to be cut out to pave the road. All of this will impact the fields and the farms and the active farming that we do have there. The cost will be slightly offset by the increase in taxes because when it is paved property values will go up, taxes will go up a little for the county. They will not be offset by the cost of this project. The project will be a long term issue that the county will pay for very deeply, maintenance included because here is a paved road, asphalt of which heavy farm equipment will travel. And you know what heavy farm equipment can do to an asphalt road in the hot summer. Maintaining will be a constant burden on the county.

The road is in excellent shape. It is hard packed gravel and it does not slip and slide. Two council members came out two days after a heavy rain. There were no mud puddles, no slick red mud. The road looked fantastic. For what reason do we need to pave this road? Let's put it to rest, once and for all. This has been going on for 21 years. If we are willing to pave in spite of all of the objections, in spite of all of the justifications and the engineering and everything else, then so be it. But, I cannot conceive that we are willing to spend that money in this economy on something that will benefit so few people.

William Jackson

Mr. Jackson spoke concerning the safety of the road. There are 18-wheelers on the road as well as FedEx and UPS delivering to a business at the end of the road. A school bus also travels this road and meeting it on a one-lane blind curve endangers the children on the bus and the occupants of the other vehicle. He felt that paving the road would increase the safety because there would be two lanes rather than one.

Mr. Jackson referred to the inconvenience of the access to Martintown Road during the paving of the road as stated by Mr. Crouch. He (Jackson) felt sure this could be worked out.

Ken Alexander also spoke concerning the safety of the road, particularly about the school bus, and the other residents of the road. Who would be responsible for the liability? Are the McKies going to pay the bills if there are law suits, or will the county pay?

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Erwin Williams

Mr. Williams, like Mr. Jackson and Mr. Alexander also spoke on a 30 ft. right-of-way. Fifty feet is what the state wanted in order to accept the roads which the state no longer does.

The administrator stated that he had checked the deed index back to 1914 and there was no deed from the McKies' to Edgefield County for any road right-of-way. He had also found the plat that was mentioned earlier by one of the residents. The right-of-way shown on that plat was Townes Road right-of-way to be deeded to Edgefield County at a later date and that later date has not come for the portion that was referred to. This plat was dated 2005 and no deed has been executed to the county since then.

A motion to postpone the request for paving until some concrete evidence is received for the right-of-way and if the county cannot get the right-of-way to do the job according to the county regulations it is no use..... Before a second was accepted, Councilman. Bright said that if we had a 30 ft. right-of-way we are not going to pave the road, right? Why do we keep pounding this now going on for 20 something years. Let's put the nails in the coffin because until they come up with the correct right-of-way we are not going to pave it. I move that this request be denied until the proper right-of-way is met according to our present ordinance and we should not look at anything any less. Motion was seconded by Councilman Dorn and the motion carried unanimously.

David McKie signed to speak but declined.

Sheriff's Office / Heat Pump

Motion was made by Councilwoman Blackwell, seconded by Councilman Ashcraft to approve the payment of \$4,984 from the contingency for a heat pump for the sheriff's office. Motion carried unanimously.

Tax Board of Appeals

The chairman asked council members if any of them had a name to submit for consideration of appointment to the Tax Board of Appeals. Mr. Kneece stated he could not find anyone from his district and Councilman Dorn stated that neither could he. Motion was made Councilman Dorn, seconded by Councilman Ashcraft to postpone until the next meeting. Motion carried unanimously.

2009-2010 Proposed Budget Calendar

The administrator and the chairman explained how the budget process works. The elected officials can address council at the March 17th council budget work session if they would like. (Councilwoman Blackwell felt the elected officials should have the opportunity to justify their requests.)

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Motion was made by Councilman Bright, seconded by Councilwoman Blackwell to approve the 2009-2010 proposed budget calendar. Motion carried unanimously.

Old Business.

Mt. Vintage Infrastructure

Mr. Dennis Brite. At the last council meeting I asked council to be part of the solution, not part of the problem, by requiring Bettis Rainsford and Mt. Vintage Development to complete the infrastructure within twenty one days or post a performance bond with a date certain in case of default. I am not enjoying this process at all. Look at all the man hours being wasted on this – your man hours, my man hours I will write off. But, we have a lot of people interested in this and from my way of thinking and the way I was taught to read English the law is pretty clear cut. I would much rather be playing golf or entertaining the fine people of Mt. Vintage in my home. Unfortunately you cannot get to it unless you have a tow truck.

This has been going on for two and a half years. By the way it has been one more month which makes 33 months of the waste, false promises and the misrepresentations. I don't have a sewer, I don't have water and I don't have a road. The only reason I have electricity is because I called Aiken Electric myself and talked with Todd Scoggins who is a great man. We had a great conversation, I explained my situation and he sympathized with me and moved me up on the priority list. I want to go on and say this is not about me. There are 30 homeowners on Eutaw Springs which is the road I am trying and want to live on but can't. All of these people have bought those lots with the intention of either building a home and living there and enjoying what Mt. Vintage has to offer as a community or they bought them for investments. In either case, no matter what their objectives are they cannot enjoy and that is tragic.

It has been almost three years since we bought the lot and were told the infrastructure would commence in six weeks and be done in six months. If I had started to build a house when I was told I could I would have a finished home vacant for two years. What have the each of you experienced in the last two years? How many friends have you made? How many times have you enjoyed the fellowship of others in the last two years? How many times have you had people over to your house? Rainsford has prevented me from having any of that and all of the people that own lots on Eutaw Springs.

Eutaw Springs is one of five roads that are in contention here. But, Eutaw Springs is the only road where there are any homes currently under construction, two of which are very close to being done. One is being occupied only through the grace of God because he is pulling water from several blocks away. The other four cul-de-sacs don't have any structures in process nor do I believe there are any building permits outstanding on those four.

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So, from my way of thinking my wife and I should have moved down here at least two years ago. Partly to enjoy the fine people of Edgefield County but also to enjoy the fine weather. Last Tuesday night back home we got 12 inches of snow. I am not there. My wife is five ft. nothing and weighs 100 lbs. and she is out there breaking her back shoveling snow and thanking Mr. Rainsford. Rainsford sent a letter to all of the Mt. Vintage landowners about two weeks, ten days ago and he mentioned that the water and sewer are not yet completed but he didn't mention it had been three years in the process. He goes on to say, and I quote "All that remains is to complete the water to these pump stations and get them started, fine grade of road and pave it." Sounds like a piece of cake. Unfortunately he is not quite accurate.

I have here a three page report from the Water & Sewer Authority dated January 14, 2009 that lists 13 different deficiencies in the water and sewer infrastructure that has to be corrected before Edgefield County Water & Sewer would even consider accepting it as part of their asset base to maintain. The 13 deficiencies, while not terminal, have multiple instances on each one. Just let me give you one example. On Eutaw Springs where the three of us are trying to live there are 27 manholes. One of these issues is that the manholes must be raised up to the level of the finished road once it is paved, if that ever happens. The 27 manholes will have to be raised. Unfortunately, at the homeowners meeting, Rainsford said they had made the decision to hire a new contractor to take over from the old contractor because he had more resources to devote to the project and thought he could get it done faster. I suspect that he may get it done faster but my logic has a real hard time with a new contractor that has four people on a crew, one of which is a superintendent versus the old contractor who had 15 guys on the crew and 27 pieces of equipment. I know, because I counted them. By the time Rainsford gets this infrastructure done my grankids will be able to move into the new house and I don't have grandkids.

Two thirds of the lift stations are not operable and that is after five days of work and three different crews trying to work on them, including one today that I talked to, they actually pull the pump in one and they cannot figure out what the problem is. Now, I will admit there is activity going on there (Eutaw Springs). They are pushing some mud around, but unless I can get a CO (Certificate of Occupancy) there is no process and unless anybody else can get a CO there is no progress. I am sure that Rainsford, will at some point and time, address these issues and use all of the superlatives and adjectives that he is good at.

He is well accomplished in public speaking that I am not. He will try to convince you that he is taking this issue seriously because of all of the activity he is trying to devote to it. If he is taking the issue seriously why is there at \$661,630 lien on the property and infrastructure. If he is taking the issue seriously why is the bank foreclosing on Mt. Vintage Development Co. Banks don't foreclose unless you default on your payments

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usually for over two months. If he taking the issue seriously why is there a new lawsuit filed last Friday by Mike Caldwell, a master builder in Mt. Vintage for breach of contract. You are aware of that suit, are you not? You should be, you are a defendant. Rainsford complains in his letter to residents that the infrastructure is costing far more than he expected. That is not surprising because what he is not telling you is that the overrun is based on three million dollars of overrun when he built the golf course. Three million dollars over budget, not the total cost, over budget. Three million divided by nine I think is \$333,000 per hole that he is over budget. That is a house, per hole, that you can build with his wonderful management skills. It also includes the double and triple costs of redoing parts of the infrastructure again and again. That is confirmed by contractors I talked with, and let me give you one example.

Back in October he hired Augusta Industrial Services, I believe is the name of the company to flush out the sewer lines underneath Eutaw Springs. In order for them to do that they had to dig down one to three feet through silt and stone and crush-n-run to get to the manholes, uncover them, and flush them out. It took them a week to flush them out. Once they were done the lines were clean. What did he do but put the manholes back on and graded all of that stuff back on top of those manhole covers to let them soak it up again. He has done that now three times in the last eight weeks and complains about how much it has cost him to do it. I am not surprised.

Rainsford is also trying to blame me for “complicating the completion of the infrastructure.” Truth be known I would have to stand in line to do that and he would be in front of it, but that’s o.k. Because there has been multiple liens in the last 18 months from various contractors for non-payment not to mention the ten million foreclosure proceedings that is in the process from Carolina First Bank. Not only does he have these unique construction skills but he also excels in financial management it appears, which brings up what I call “Bettis Math.” In his letter to Mt. Vintage landowners he claims there is \$363,000 of construction expenses left to complete the new section, and yet according to records obtained through the office of the Clerk of Court, he owes the prior contractor \$661,600 and change for construction expenses already completed. I did not go to Harvard Law School but I did pass second grade math and that is over a million dollars. Quote from Rainsford: “At all times we conformed to the requirements of Edgefield County as they were laid out to us.” I don’t believe that was true. Why, because the law is always laid out in front of you and it clearly states that the infrastructure must be completed before the first lot is sold or (not and) or a performance bond of similar security must be posted equal to a 150% of the value of the infrastructure costs. Does a building inspector or the county administrator have the authority to overturn that law? That is something you guys need to answer. Now, Rainsford’s favorite ploy of misdirection is to point out that no one in county administration ever asked him to post that bond.

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I spent a considerable amount of time going through several files, the office of the Clerk of Court, Mr. Pettigrew's files and the building and planning commission files. There is absolutely no evidence to support that point. There is no letter of exemption, no internal memo exempting him from the law and there aren't any hand written notes in the margin of the plat. If any of you have a letter of exemption I would certainly like to see it. Now don't expect Rainsford to admit that he knew of the law despite his claim of exemption. You might want to ask him or yourself why is that. On the other hand he really cannot admit that he was unaware of the law either. Why is that? I find it very hard to believe that a guy who holds himself out to be a legal expert would not do a remedial amount of research prior to developing any property much less one the size and scope of Mt. Vintage to see what the zoning and restrictions are. That is kind of real estate 101 where I come from. Have you ever heard him say that he was unaware of the law or only that no one ever told him about it? There is a major difference between those two statements. Put all of that aside for a moment.

At the last council meeting I believe, and I feel that most people would believe, that we made him acutely aware of the law. What has he done within the last thirty days to comply with it? Has he posted the required performance bond? Has he completed the infrastructure? No. No infrastructure at least. Just in case you missed it, we still do not have water, we still do not have sewer, and we do not have storm drains that work and no moving van in the world would dare come down that cow path. Rainsford testified at the last council meeting that "we have done everything that the county has asked us to do." If you are so concerned about complying with county requirements why hasn't he made an effort to comply with the law that has been there for years, even more years than I have been waiting to move into my own house. The law exists to protect people like us from developers like him that ignore their legal obligations. Since he refuses to complete the infrastructure according to the existing law, I am just shining a spotlight on his false promises and his incompetence. I don't really care what he says, I care what he does.

At the last council meeting he blamed most of his troubles on the lousy economy. Where did the forty to sixty million dollars go that he sold in 2005 and 2006 that was supposed to fund the infrastructure in the new section before he sold the first lot? And, now, the foreclosure document discloses that he took out a seven million dollar loan just days after he completed the two best sales years in 2005 and 2006 estimated between forty and sixty million. Why would you need a loan for seven million dollars when you just completed sixty million dollars worth of sales? He surely did not put it in the infrastructure. If the economy is so lousy why are there 19 homes under construction in Mt. Vintage. That is his number, not mine. At the homeowners association he told us there were 19 homes under construction at the end of the year. If the economy is so lousy why are 93% of Americans still working and paying their bills? If the economy is so lousy why did the

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Cooper Place start development at the precise time that Rainsford claims the bottom fell out of the economy? It is my understanding that Cooper Place was financed. I believe Rainsford said he could not find any financing.

This is for the residents, not necessarily for the council. Rainsford states in his letter to Mt. Vintage landowners and I quote, "We called him to dissuade him from going to the county council and to let him know that we thought his action would hurt property values of all homes at Mt. Vintage." That's a lie. "We" never called me. Talmadge called me. I won't tell you what we talked about because it is confidential but we did not talk about Mt. Vintage and we did not talk about property values. I tell you this because the council needs to know not the content of the letter or the telephone conversation but rather to illustrate the content of this character. Now, not to complicate things, I don't really want to do this but I have to. Edgefield has another ordinance under Title 15, Section 154 which requires action by the developer pertaining to erosion and sediment control and storm water management plan. A plan which fully indicates necessary land management and treatment measures including a time table of the schedule for their installation which will effectively minimize soil erosion and sedimentation and which will provide for successful management of storm water. Initial development of residential subdivisions are not exempt from provisions of this chapter. All construction work, roads, sewer, lot grading, etc. done to establish a residential subdivision for the construction of single family residences on individual lots shall comply with the provisions of this chapter. 'Shall' is a legal term in contract law. 'May' is if I want to, 'shall' means you have too. Use temporary plant cover, mulching sediment basins, silt traps, or other structures to control runoff, protect areas subject to erosion, and remove heavy sediment loads from runoff. That is in part of what the ordinance says.

For the past two and a half years there has been no erosion control, temporary or permanent along Eutaw Spring Trail, except for 200 feet of silt fence at the far east end. This has led to several times something tons of mud and silt under the road not to mention the rest of the 1.2 miles of Eutaw Springs without any erosion control and hundreds of tons of mud and silt on the road and in the wetlands. Oh, by the way, the ordinance goes on in a section for penalty. "Any persons who willfully violates the provisions of this chapter shall be deemed guilty of a misdemeanor and, upon conviction, shall be imprisoned for not more than six months or fined not more than \$1,000 or both." Maybe he should clear his calendar. The lack of erosion control by Mr. Rainsford is so severe that it is common to find four to twelve inches of mud and silt in the road from the adjacent right-of-ways resulting in nearly impossible conditions and while I continue on for a moment I will share these. These are pictures taken today (gave pictures to council). Compounding the silt in the road there are several areas along the right-of-way that had silt several feet deep and one to feet wide where rains had washed away the top soil either onto the road or into the wetlands and every time it rains the silt gets worse.

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I took Mr. Ashcraft on a tour yesterday and I pointed these things out and so you can consult him for confirmation of that. Instead of scraping the silt and dirt off the road and placing it back on the right-of-way where it came from, what does he (Mr. Rainsford) do but he brings in 76 more truck loads of dirt from a prior contractor and dumps them on the right-of-way and puts another 25 loads of dirt from a stock pile and dumps them on the right-of-way to replace the silt that is already on the road. The cost to constantly repair the road where it completely washes out under the curve, flush out the sewer system three times within eight weeks or so, re-grade the road multiple times, haul 76 truck loads of dirt plus another 25 from a stock pile, rent a bulldozer, pay the labor cost to spread the 76 loads of dirt, replace and repair the pumps on the lift station have been totally neglected for a year sitting in five feet of water and silt. Clean out the countless storm drains that are three to five feet deep that have been completely filled up with silt to the top of the man hole covers and countless other missteps will likely exceed what the initial cost to pave the road would have been eight months ago.

Here is how I see the situation. You, essentially as a council, have two choices and what the consequences are of each, you have to ask yourself. I will give you a hint. One of the choices you don't have is that you will be permitted to sit on the side lines and be a spectator. This is my last presentation to council on this matter. Finally, I want to apologize to the people in Mt. Vintage for burdening them with this issue. All I ever wanted to do was build our retirement home, move into it, and enjoy new friends. Thank you for your time. (Mr. Brite left the chambers at this time.)

The chairman stated that he does not know exactly what Mr. Brite expects council to do. Mostly everything he (Brite) has said is for a law suit against Mr. Rainsford. Mr. Kneece at this time asked the county attorney (Mr. Byrd) if he could give an answer to the things that Edgefield County is supposed to do.

Mr. Chairman, I will respond only as county attorney involving Edgefield County's involvement in this matter. Not Mr. Rainsford (he isn't here), I am not defending or setting out Mr. Rainsford's position, I don't know what it is except that would be between Mr. Rainsford and Mr. Brite. As county attorney, we were asked after the last meeting to review the law as it had been presented and the facts as they were told to us by Mr. Brite and Mr. Rainsford. I met with the county administrator and the chairman on more than one occasion and I went to Columbia and met with the Association of Counties' attorneys and their staff about this matter and spent some time with them. We asked for an opinion so that the county would have a position where we stand on this. First, the issue of a performance bond and what he stated is correct. A performance bond was never procured, was possibly never asked for. The county has the authority to ask for a performance bond. There isn't much more we can do other than request a performance bond. If one of the parties states they are not able to procure a bond then we are back to

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the drawing board. There was a question that was brought up last time about the documents that have been submitted by Mt. Vintage in the early years when they first organized about a plat. It appears that the plat that was submitted and recorded was not approved by the building department or the planning board. The Association of Counties' attorneys advised that could be redone and filed again and ask the planning board to approve it.

As far as the issues that were raised Mr. Chairman about the civil matters, as you stated a minute ago, between Mt. Vintage and the three claimants who have filed liens or mechanics claims or lis pendens or actions pending against Mt. Vintage, to my knowledge and I have not seen the third one. I am not aware of us being a defendant in the first two. It (the first two) is strictly a civil matter between a person who did work for Mr. Rainsford, as I am informed, and the people that Mr. Rainsford and Mt. Vintage and the people that claimed are due monies. It is not an issue that Edgefield County is to be involved in at this point. The matter he (Brite) brought up about the erosion and storm water is the first I have heard about it is tonight Again, that is something that will be an issue I am sure when Mr. Rainsford and Mr. Brite settle their differences. There isn't a lot we can tell except we can ask him to put up a performance bond and the plat re-submitted for approval. We and the authorities in Columbia are of the opinion this is a civil matter between a developer and an individual. Mr. Chairman, is there anything else you want brought up?

From the audience: "Everything you say Mr Byrd certainly makes sense. But the point Mr. Brite brought up tonight about a criminal statue, the runoff and the silt, if that statute is on the books it appears the county should be enforcing that." Mr. Byrd: "If it is a law on the books and is a criminal statue, then it would have to be held through the criminal courts through the magistrate's office and warrants issued." Audience: "But even if it is a civil matter, a building code, the building department people should be out there enforcing it." Mr. Byrd stated that the county is trying to use every resource available to see what we can do to resolve this matter.

Another question from the audience: "Is there a county ordinance that requires a performance bond. Mr. Byrd said you could ask for one. That just does not make sense. How can you enforce by asking. I would think that somewhere within the county system there are documents that require this, that and the other prior to construction, whether it be a major development or whether it is someone building on a lot."

The chairman asked Mike Reed, Building Official, if he had a definite description of that (performance bond). After looking at the ordinance the chairman read: "No subdivision or land development plat portion or phase therefore, shall be accepted for filing by the Clerk of Court office until it has been approved by the Planning Commission or by the

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Zoning Administrator as so indicated on the Plat by the signature of the authorized agent. No such signature shall be affixed to the Plat until the developer has completed all requirements, improvements, or has posted a letter of credit-cashiers check, performance bond or other acceptable security with the county in the amount of 150% of the estimated cost of improvements guaranteeing the completion of the improvements in compliance with the requirements herein.” The question asked to the chairman: “Who enforces that? You have it right there, now who enforces it?” “The county.” It does not appear that was followed, Mr. Chairman.

Someone from the audience spoke – did not give his name. I sit here and listen to the attorney, I certainly respect him as an attorney, and it sounds to me like you are coming back is that what was brought before the council, that the only redress that Mr. Brite and or anyone else living in the community has, is through the courts. I hear a request for a performance bond and a plat and I don’t hear anyone saying that the county is responsible for enforcement or overview for inspection, for anything. I mean, that is what I get – excuse me Mr. Byrd, you indicated to me that the only thing that meeting with the people in Columbia that they all agree that you can request a performance bond and I don’t hear anything about enforcement. You mean to say that anybody in development can come in here and just start this thing up? Do all of the stuff that they have done? Mr. Brite comes up with the complaints, and that is the kind of legal opinion we get as the responsibility of this council or the county? Are we just suppose to go to the courts or are we in the wrong venue?

Councilman Ashcraft voiced his opinion. “The effects of the oversight by the county are tremendous and I don’t think it is acceptable. Now, I don’t care what that piece of paper says I am not happy until this gets done and done quick. Something should be done for these people. I don’t know what.”

There were comments from the audience from a citizen but not very audible. The gentleman that spoke prior to Councilman Ashcraft’s statement spoke again stating that “I respectfully say that I have not gotten an answer to my question, that being, are we in the wrong venue, where do we have redress and I just stated what I heard from Mr. Byrd, the attorney in saying that you could request something and that is about it and that you could require another plat be done when we have already built 200 and something homes out there.” Mr. Byrd asked him if he was asking what the county should do or could do or can do. We have consulted with the people that are in the know as far as this type of thing and this is what they told us. The letter reads “At this point the county can ask the MV Development for a performance bond” and they are telling us there are no really enforcement provisions as such under that. Now, it was brought out by Mr. Brite about a criminal aspect of the erosion part. We were not talking about that, we were talking about a performance bond for the infrastructure that Mr. Rainsford is supposed to be doing. The

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county has not issued performance bonds in the past. I believe Mr. Reed and Mr. Mueller can verify that there are instances that where they might be but as I understand it last week it was stated that no performance bond has been required. Not on a subdivision. This is a unique situation that has come up and again I refer to the fact that it is a civil matter between a developer and a landowner. The county's involvement in it may have been in error somewhere along the line ten years back, I can't say-when Mt. Vintage was developed.

Executive Session

At this point, Councilwoman Blackwell addressed the chairman that since this is a legal matter, that council convene in executive session to see what they could come up with. The motion was seconded by Councilman Bright. Motion carried unanimously.

Returning to regular session a motion was made by Councilwoman Blackwell, seconded by Councilman Bright, to request a performance bond from Mt. Vintage Development Association. Motion carried unanimously.

The chairman addressed Mike Reed, Building Official, that from here on any future Mt. Vintage development and any other developments in Edgefield County, a performance bond is required.

Administrator's Report

No administrator's report due to a late meeting.

Guests

Several guests spoke earlier concerning Mt. Vintage.

No comments from the public.

Claims approved as follows

- A. **PAYROLL: 12/29/08 thru 1/11/09**
 Regular.....\$249,260.84
- PAYROLL: 1/12/09 thru**
 Regular.....\$229,900.60
- B. **General Operating.....\$598,038.97**

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There being no further business, the motion was made by Councilman Dorn to adjourn.
The next regular meeting of council is scheduled for Tuesday, March 3, 2009.

C. Monroe Kneece, Chairman

Willie C. Bright, Vice Chairman

Rodney Ashcraft, Councilman

Regina Blackwell, Councilwoman

Norman Dorn, Councilman

ATTEST

Barbara Stark, Clerk to Council

